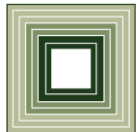


The Office of Indigent Defense Services

William Childs
Fiscal Research Division
March 11, 2015



FISCAL RESEARCH DIVISION
A Staff Agency of the North Carolina General Assembly

The Office of Indigent Defense Services

Indigent Defense Services (IDS)

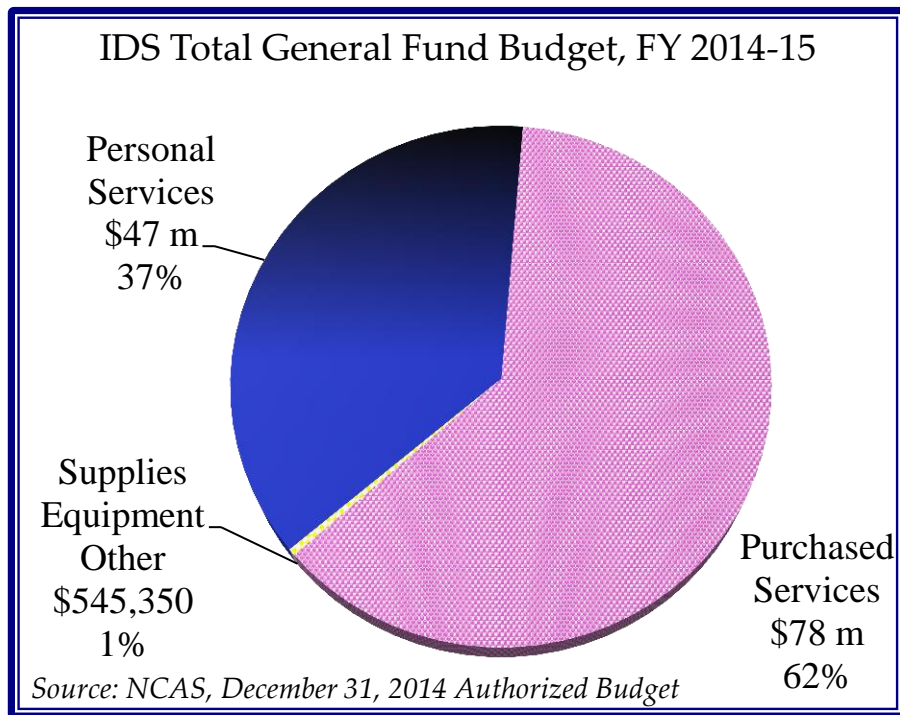
Provides defense attorneys for indigent defendants

Thomas Maher, Director of IDS

Includes:

- Public Defender offices
- Private Assigned Counsel Fund

Total General Fund Budget: \$125 million
Total FTE Employees: 503.9



14th Amendment to U.S. Constitution

§ 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

North Carolina Constitution

Art. I § 19. Law of the land; equal protection of the laws.

No person, shall be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property, but by the law of the land. No person shall be denied the equal protection of the laws; nor shall any person be subjected to discrimination by the State because of race, color, religion, or national origin.

Indigent Defense Services Act

- Article 39B of General Statutes
 - §7A-498 to §7A-498.8
 - Passed by NCGA in 2000
 - IDS began operations in July 2001
- Only agency in the Judicial Branch that is not overseen by AOC
- AOC remains responsible for some IDS functions: Purchasing, Personnel, some IT

IDS Responsibilities (§7A-498.3)

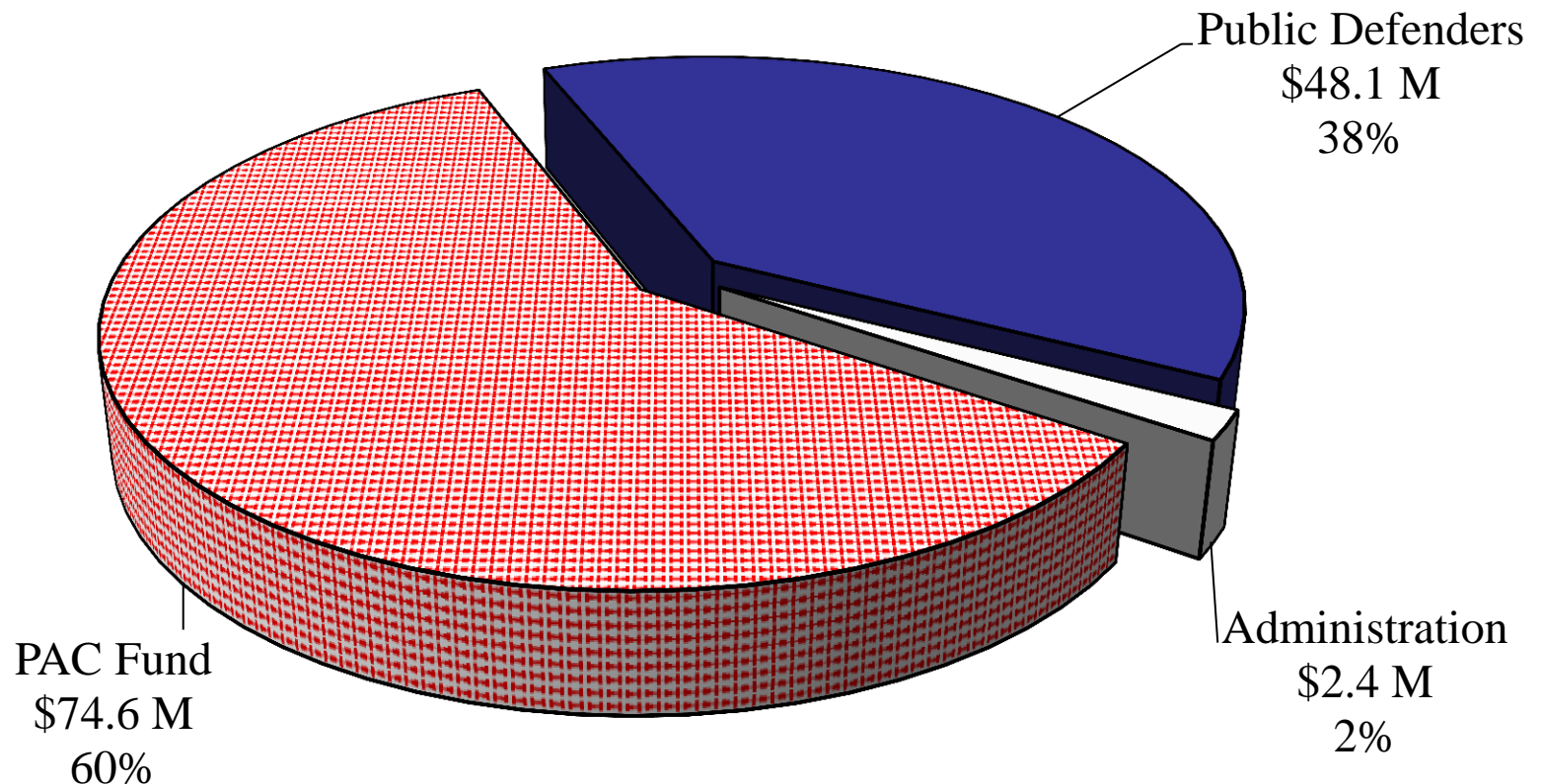
1. **Overseeing the provision of legal representation to indigent defendants and others entitled to counsel under North Carolina law**
2. Developing training, qualification, and performance standards to govern the provision of legal services to indigent persons
3. Determining the most appropriate methods of delivering legal services to indigent persons in each judicial district
4. Providing services in the most cost-effective manner possible.

Legal Counsel For Indigent Persons

- Private Appointed Counsel (PAC)
 - Court-appointed private attorneys
 - In counties or districts without PD offices
 - Also assigned in counties or districts with PD offices when a PD cannot take a case
- Contract Defenders
 - Contracted private attorneys taking bulk PAC cases at pre-established rate
- State Public Defender Offices (PD)
 - In 16 of 41 District Court districts
 - May overlap in Superior Court districts
 - Includes Regional and Statewide Specialty Defenders

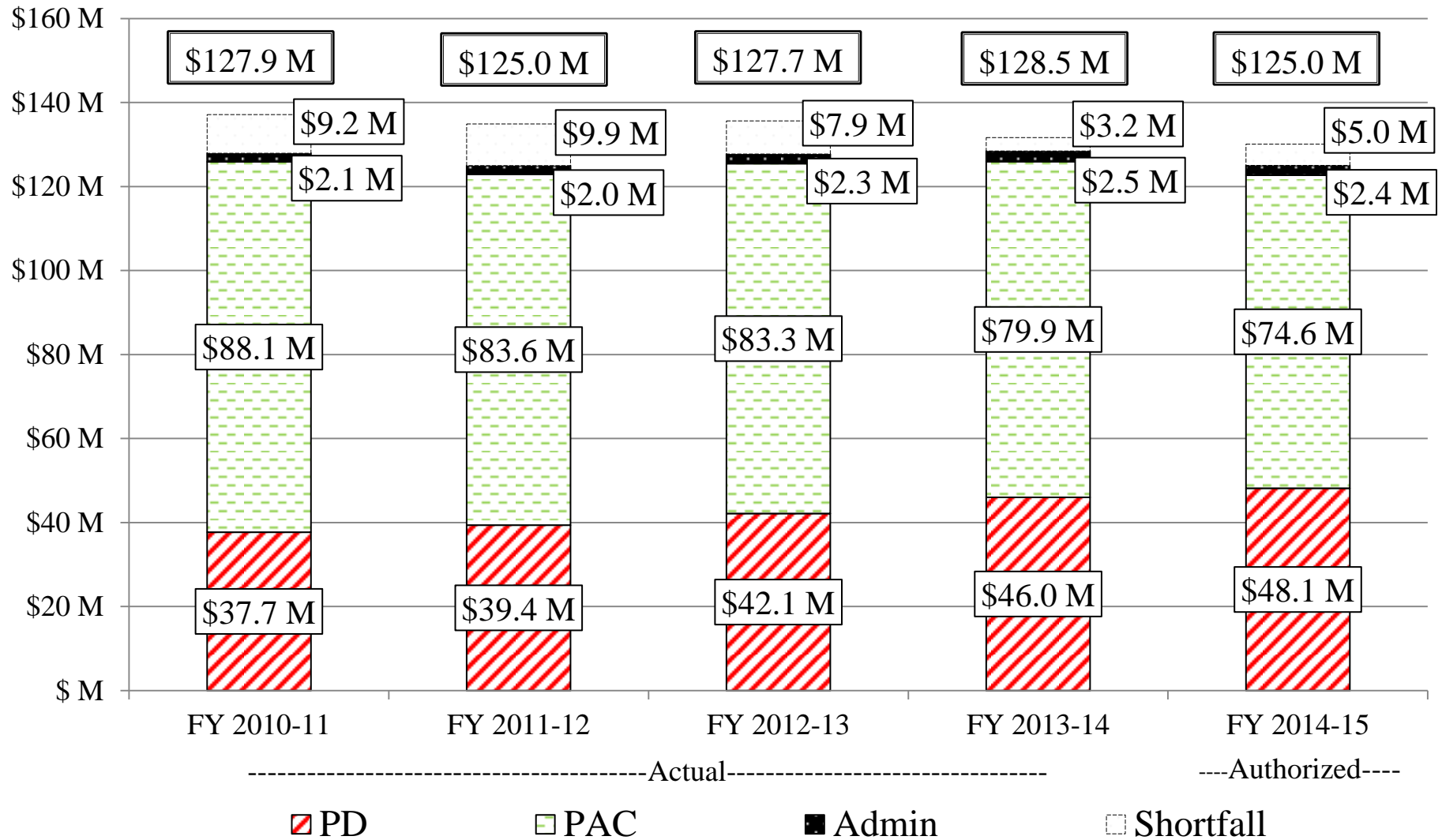
IDS Program Budget FY 2014-15

Total General Fund Budget: \$125 million



Source: NCAS, December 31, 2014 Authorized Budget

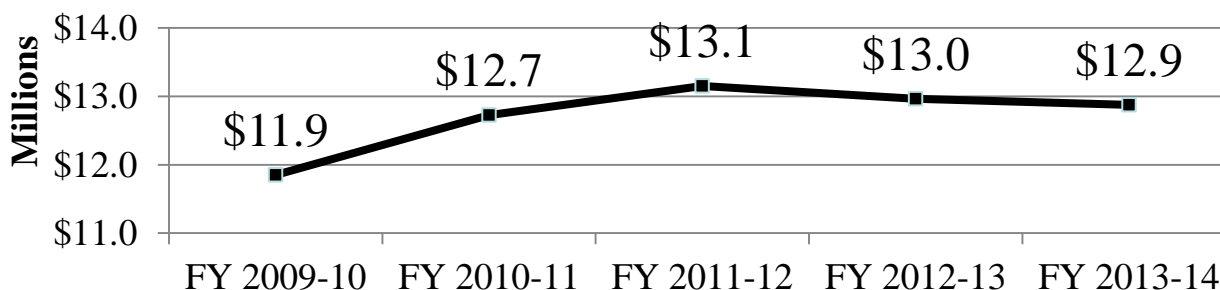
IDS Budget History



Source: NCAS

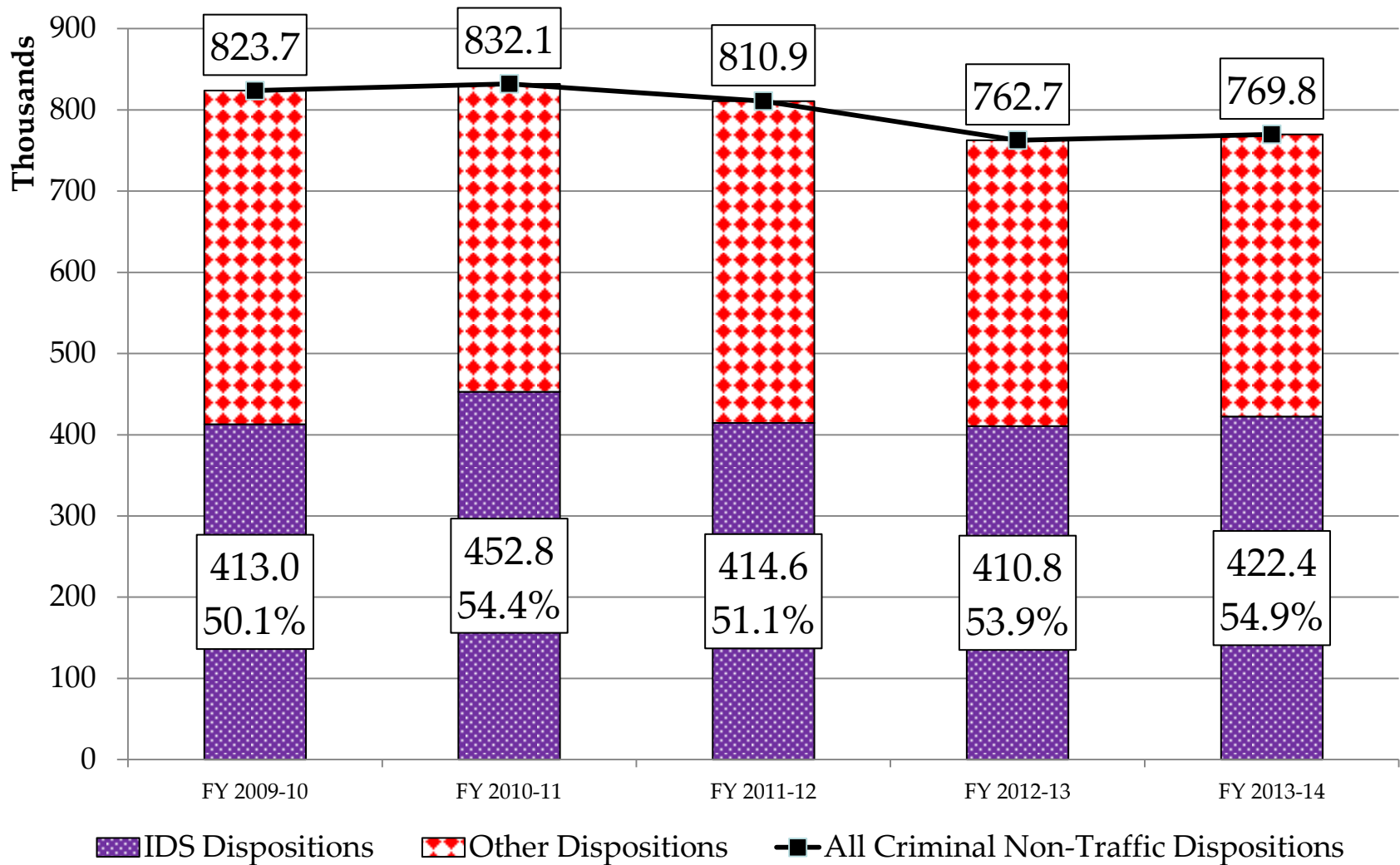
Recoupment

- Probationary collections
- Civil judgments
- State income tax refunds
- Lottery proceeds



- IDS concerns:
 - Fewer state income tax refunds under new tax code
 - Contract system shifts away from PAC attorneys
 - harder to track hours

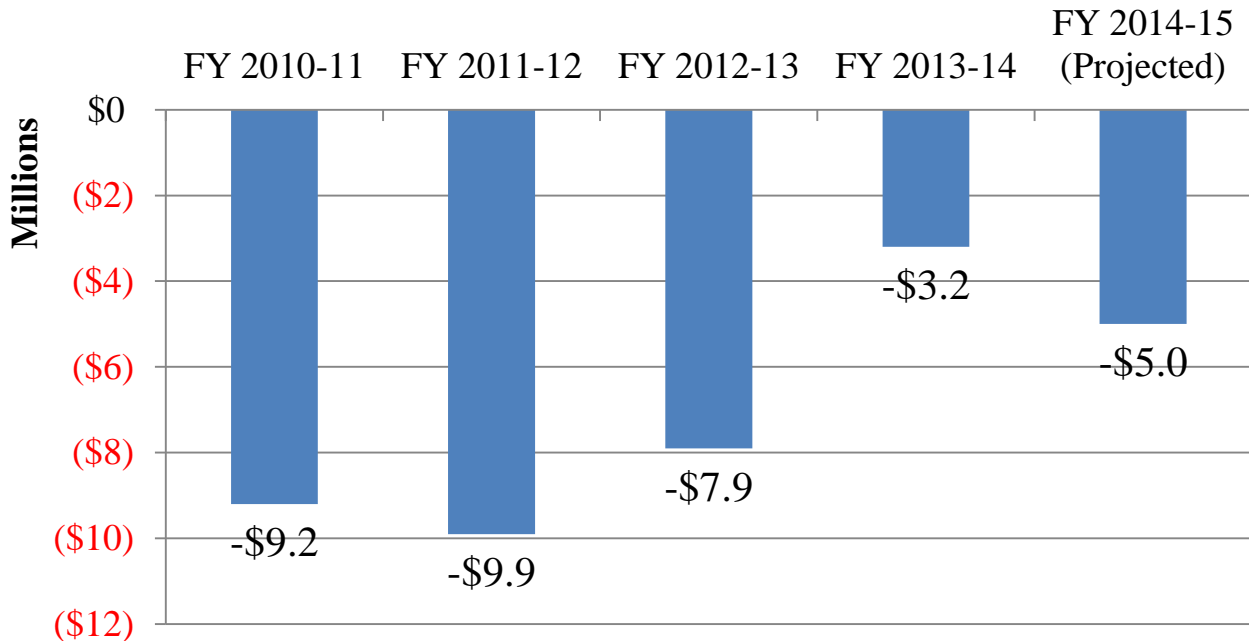
Growing IDS Caseload



Source: IDS

Private Appointed Counsel Fund

- Compensates private attorneys appointed to provide defense for indigent defendants when no public defender available
- Shortfall:



Source: IDS

PAC Rates

- Pre-2011:
 - \$75/hour for most cases
 - \$95/hour for capital cases, appeals, and post-conviction
 - \$85/hour if non-capital
- Current:
 - \$55/hour for District Court cases
 - \$60/hour for most Superior Court cases
 - \$70/hour for A-D felonies
 - \$85/hour for capital cases, appeals, and post-conviction
 - \$75/hour if declared non-capital

Contract Defender System

- Expected to cut long-term costs for IDS
- Collects cases into “units” equivalent to 360 billable hours = 20% of average annual workload
- Each unit contains cases of variable difficulty
- Divided into misdemeanors, low-level felonies, and high-level felony
- May also have units for probation violations, Drug Treatment Court, or truancy
- Coordinated by Regional Defender
 - Can provide additional support and education for contract defenders

Contract Defender System

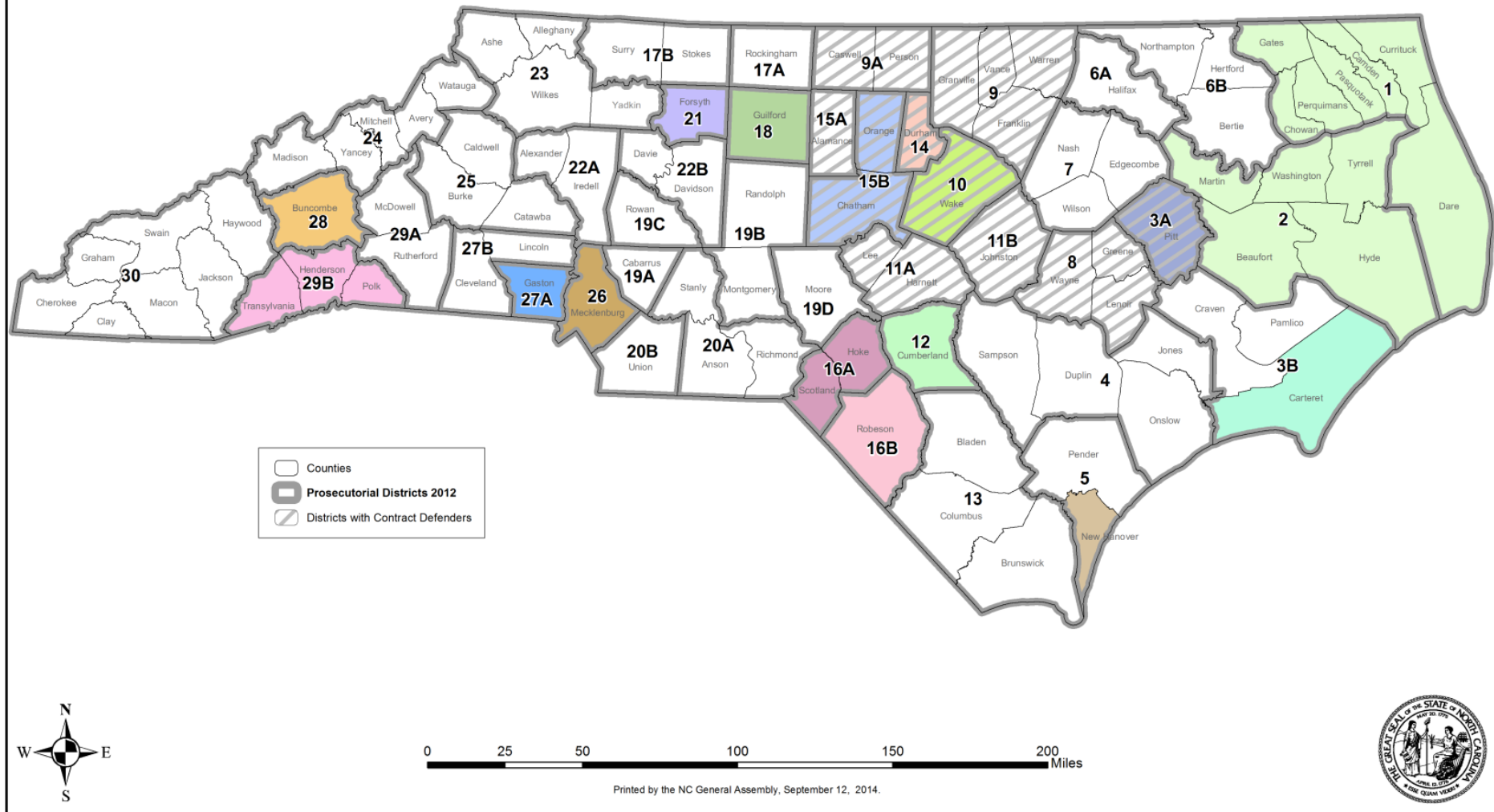
- First round:
 - Wake (District 10), Durham (District 14), Franklin, Granville, Vance, and Warren (District 9)
 - Effective December 2012
- Second round:
 - Orange and Chatham (District 15B), Alamance (District 15A), Caswell and Person (District 9A)
 - Effective June 2013
- Third round:
 - Lee, Harnett, and Johnston (District 11), Wayne, Lenoir, and Greene (District 8), and Pitt (District 3A)
 - Effective August 2014

Contract Defender Compensation

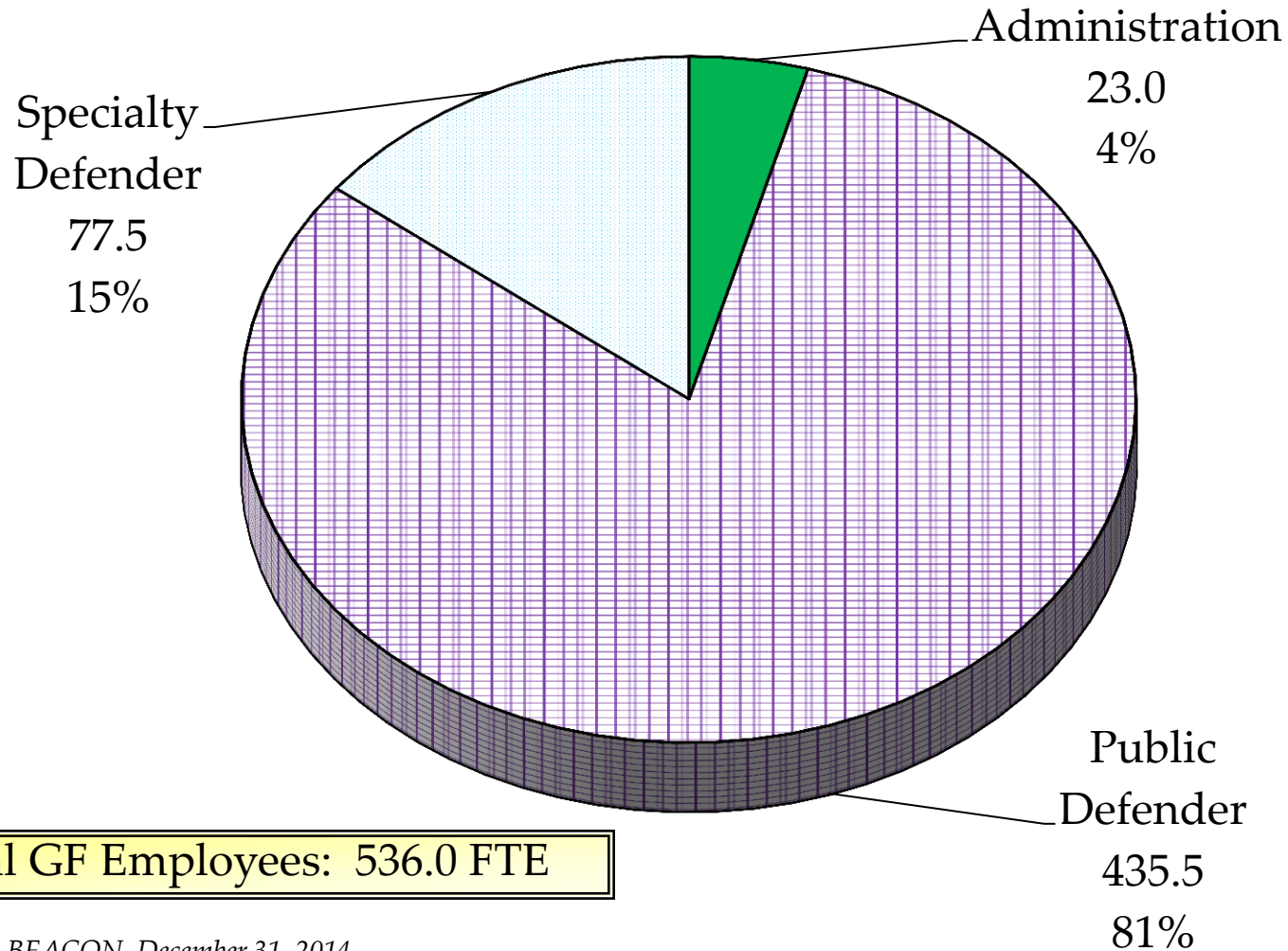
	Number of Annual Dispositions/Unit	Annual Compensation	Per Case Compensation
Adult Misdemeanor	102-124	\$17,500	\$141 - \$172
Adult Low- Level Felony	56-68	\$19,500	\$287 - \$348
Adult High- Level Felony	21-25	\$23,500 (can receive extraordinary case pay if pre- approved)	\$940 - \$1,119

Source: IDS

Prosecutorial Districts with Public Defender Offices and Contract Defenders



IDS Personnel



Total GF Employees: 536.0 FTE

Source: BEACON, December 31, 2014

Public Defenders

- 16 District Public Defender Offices
- Five Specialty Defender Offices:
 - Office of the Juvenile Defender: 3 FTE
 - Office of the Appellate Defender: 25 FTE
 - Office of Parent Representation: 5 FTE
 - Office of the Capital Defender: 29 FTE
 - Regional Offices: Durham, Forsyth, Buncombe, New Hanover
 - Office of the Special Counsel (Mental Health): 15.5 FTE
 - Regional Offices: Broughton Hospital (Burke), Cherry Hospital (Wayne), both Central Regional Hospitals in Raleigh (Wake) and Butner (Granville)

Administration

- Total: 23 FTE
 - Executive Administration: 1 FTE
 - Legal and Policy: 2.5 FTE
 - Financial Staff: 11.5 FTE
 - Public Defender Support: 3 FTE (includes CCIS-PD support)
 - Contract System Support: 3 FTE
 - Research: 2 FTE

Source: IDS

Fee Transparency

- Post searchable information from attorney fee applications online
 - updated at least biweekly
 - includes all criminal fee applications paid January 2, 2015 and later
- Includes:
 - Case Number
 - Date Paid
 - Amount Paid
 - Highest Charge and whether there were multiple charges
 - Time Pending
 - Disposition
 - County
 - Attorney
 - Judge and Level of Court

North Carolina Prisoner Legal Services

- Pass-through contract
- Provides legal advice to inmates about statutory or constitutional right to meaningful access to the courts (Motions for Appropriate Relief)
 - Identifies sentencing errors
 - In legitimate claims, handles post-conviction litigation
 - Avoids frivolous *pro se* filings by explaining legal status when conviction and sentence are lawful and correct
- NCGA reduced contract from \$2.9 to \$2.0 million for FY 2013-14
 - NCPLS no longer reviews civil claims (excessive use of force, negligent failure to protect (including sexual assault), and the provision of inadequate medical care)

Low-level Misdemeanor Reclassification

- NCGA modified structured sentencing as of 12/1/2013
- Class 3 Misdemeanor faces Intermediate Punishment (including jail time) with four or more prior convictions
- IDS budget reduced by \$2.0 million
- Challenges for legal system
 - Uncertainty about prior conviction level at first appearance, when defense attorneys assigned
 - Uncertainty about ongoing proceedings that may bypass threshold level of prior convictions at sentencing
- CJLEADS report helps ease some challenges

Recent Legislative Actions: 2013 - 2014

2013

- Reduce Prisoner Legal Services: (\$0.9 million)
 - Low-level misdemeanor reclassification: (\$2.0 million)
 - Admin staff reduction: (\$258,634)
- TOTAL:** **(\$3.1 million)**
- Additional PAC Funds: \$3.8 million NR

2014

- Salary and Benefits Reserve: \$802,347
 - Admin reduction: (\$466,380)
- TOTAL:** **\$335,967**

